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MARRIOTT INTERNATIONAL, INC. AND
ASHFORD TRS SAPPHIRE II, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HILDA JONES-ALLEN, GEORGE
ALLEN,

Plaintiffs,

v.

MARRIOTT INTERNATIONAL, INC.;
and DOES 1 to 20,

Defendants.

Case No. 4:17-CV-05184-KAW

**SECOND JOINT RULE 26(F) REPORT AND
CASE MANAGEMENT STATEMENT**

Scheduling Conference Date: March 13, 2018

Scheduling Conference Time: 1:30 p.m.

Complaint Filed: August 4, 2017

Trial Date: None set

Magistrate Judge: Hon. Kandis A. Westmore

Trial Date: None set

On December 12, 2017, counsel for Plaintiffs Hilda Jones-Allen and George Allen and Defendants Marriott International, Inc. and Ashford TRS Sapphire II LLC dba Newark Residence Inn attended the initial Scheduling Conference with this Court. At said Conference, the Court recommended that the Parties continue to discuss discovery and case management and return for a second Scheduling Conference.

On March 5 and 6, counsel for the Parties met and conferred as required by Rule 26(f) and this Court's Order Setting Initial Case Management Conference and ADR Deadlines.

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Counsel for the Parties to the above-entitled action jointly submit this second Joint Rule 26(f) Report and Case Management Statement and Proposed Order addressing each of the items listed in the Standing Order for All Judges of the Northern District of California dated July 1, 2011 and Civil Local Rule 16-9.

1. **Jurisdiction & Service**

Defendant Marriott International, Inc., (“Marriott”) has been served and appeared in this action.

The instant action was removed to this Court in September 2017, based upon diversity jurisdiction. This is a civil action of which this Court has original jurisdiction under 28 U.S.C. section 1332, and is one which has been removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. section 1441(b) in that it is a civil action between citizens of different states and the matter in controversy as alleged by Plaintiff exceeds the sum of \$75,000, exclusive of interest and costs.

Marriott denies that there is any basis for naming Marriott International, Inc., as the proper owner for this hotel is Ashford TRS Sapphire II LLC dba Newark Residence Inn. Plaintiff has just named Ashford as a Doe defendant and has served Ashford as well. Once Plaintiff verifies that Marriott is not a responsible party, Plaintiff will dismiss that defendant.

Complete diversity of citizenship exists. Plaintiff is a citizen of the State of California. Defendant Marriott was and is a corporation incorporated under the laws of the State of Delaware, having its principal place of business in the State of Maryland. (Potential Defendant) Ashford TRS Sapphire II LLC was and is a limited liability company formed under the laws of the State of Delaware, having its principal place of business in the State of Texas. At this time, there are no other defendants that have been served with summons and complaint in this action.

Venue is appropriate before this Court pursuant to 28 U.S.C. section 1446(a) in that the removed action was filed in the Superior Court, State of California, County of Alameda. Additionally, the underlying incident occurred in the County of Alameda.

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2. Facts

Plaintiff Hilda Jones-Allen alleges that on August 8, 2015 she slipped and fell while walking across the lobby area while she was a guest at the Newark Residence Inn. Ms. Jones-Allen had been a long-term guest of the hotel. On the date in question, Ms. Jones-Allen claims that as she walked through the coffee and food area of the lobby, she slipped and fell on a wet floor onto her back, sustaining personal injuries. Plaintiff further claims that hotel management failed to warn of the condition of the floor.

Ms. Jones-Allen was 73 years old at the time of the accident and suffered from chronic neck, back and shoulder pain prior to the accident. She fell onto her buttocks and then onto her back and suffered the following personal injuries:

1. Low back injury consisting of a broad based bulges at L3-L4 and L4-L5 which impinge on the central spinal canal causing stenosis to 5 mm. As a result of this injury, Plaintiff has constant low back and tail bone pain. She also suffers from severe urinary incontinence as well as fecal urgency and occasional incontinence. Plaintiff had a prior history of incontinence. The accident made this condition constant and worse. She had no history of fecal incontinence.
2. Aggravation of pre-existing neck and mid back pain.

Plaintiff's treatment has been paid for by Medicare for which a lien has been asserted for \$23,158.87

There is no claim for loss of income.

George Allen alleges a single claim for loss of consortium.

3. Legal Issues

Plaintiffs' claims for relief against Ashford, as the owner and manager of the premises, are based on premises liability. She alleges that Ashford negligently caused the floor of the area in question to be wet and slippery and that Ashford failed to warn guests of this hazard. Based on the information made available at this time to Ashford, it expects that its legal defenses will focus on the issue that it had neither actual nor constructive notice of this allegedly dangerous hazard. Ashford also anticipates that the

open and obvious nature of this “wet and slippery” floor will also be an issue. Defendant also expects that the nature and extent of Plaintiff Hilda Jones-Allen’s alleged injuries as well as the extent of Plaintiff George Allen’s loss of consortium claim will be issues for this matter.

4. Motions

Plaintiff does not expect to file any motions at this time.

At this time, Ashford anticipates filing a motion for summary judgment.

5. Amendment of Pleadings

Plaintiff has amended her pleadings to name Ashford as Defendant Doe 1.

Ashford has not filed any affirmative pleadings with this Court.

6. Evidence Preservation

The Parties have reviewed the Guidelines Relating to the Discovery of Electronically Stored Information and have met and conferred pursuant to Federal Rule of Civil Procedure 26(f) regarding reasonable and proportionate steps taken to preserve evidence relevant to the issues reasonably evident in this action.

7. Disclosures

The Parties have agreed to exchange initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) by Monday, January 29, 2018.

8. Discovery

To date, the Parties have propounded written discovery. The Parties have agreed that written discovery in the form of interrogatories, requests for admission, requests for document production, and the taking of depositions will be required in this matter. As Plaintiff Hilda Jones-Allen alleges significant personal injuries based on the incident in question, Ashford has also subpoenaed Ms. Jones-Allen’s relevant medical records.

The Parties now submit the following proposed discovery plan:

A. Plaintiff’s Anticipated Depositions:

- i. Manager and/or person in charge of the hotel at the time of the accident;
- ii. Hotel staff employed at Embassy Suites at the time of the accident.

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B. Embassy Suites' Anticipated Depositions:

- i. Plaintiff Hilda Jones-Allen – Defendant anticipates taking Plaintiff's deposition early in the discovery process but has not yet had the opportunity to subpoena her medical records.
- ii. Plaintiff George Allen.
- iii. Plaintiff Hilda Jones-Allen's medical providers – At this stage, Plaintiff has disclosed her medical records, treating physicians, and her other medical professionals.

9. Class Actions

This matter is not a class action.

10. Related Cases

The parties are not aware of any related cases to this matter.

11. Relief

Plaintiff seeks damages for personal injuries including general damages and medical expenses in an amount according to proof.

Ashford seeks a dismissal of the Plaintiffs' Complaint against it.

12. Settlement and ADR

Pursuant to ADR Local Rule 3-5, the Parties have agreed to participate in an Early Neutral Evaluation. The Parties have also agreed to maintain a discussion to keep open the option to participate in private mediation.

13. Consent to Magistrate Judge for all Purposes

The Parties consent to the magistrate judge for all purposes.

14. Other References

This matter is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

15. Narrowing of Issues

The issues may be narrowed by motion practice or by agreement of counsel.

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16. Expedited Trial Procedure

Ashford believes that this case should not be handled under the Expedited Trial Procedure of General Order 64.

17. Scheduling

In addition to what is provided above, counsel for the Parties will be prepared to discuss this item at the upcoming Case Management Conference. As a starting point, the Parties propose the following schedule:

Close of Fact Discovery	September 28, 2018
Expert Disclosures	October 26, 2018
Rebuttal Expert Disclosures	November 30, 2018
Close of Expert Discovery	December 28, 2018
Motions for Summary Judgment Due	January 25, 2019
Hearing on Motions for Summary Judgment	February 22, 2019
Exchange of Pretrial Disclosures	April 12, 2019
Deadline to File Pretrial Conference Statement and Related Disclosures, Motions in Limine, and Trial Briefs and Related Documents	April 26, 2019
Deadline to File Motions in Limine Oppositions	May 3, 2019
Pretrial Conference	May __, 2019
Final Pretrial Conference	June __, 2019
Trial	June __, 2019 (Duration: 5 days)

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1 **18. Trial**

2 The Parties request a five day jury trial.

3 **19. Disclosure of Non-party Interested Entities or Persons**

4 All Parties have completed the “Certification of Interested Entities or Persons”
5 required by Civil Local Rule 3-15.

6 **20. Professional Conduct**

7 All attorneys of record for the Parties have reviewed the Guidelines for
8 Professional Conduct for the Northern District of California.

9 **21. Other**

10 None.

11 LAW OFFICES OF RIVES & RIVES

12
13 DATED:

By: /s/ Ronald P. Rives

Ronald P. Rives

Attorneys for Plaintiffs

HILDA JONES-ALLEN and GEORGE
ALLEN

17 KLINEDINST PC

18
19 DATED:

By: /s/ Michael W. Carruth

Ian A. Rambarran

Michael W. Carruth

Attorneys for Defendant

MARRIOTT INTERNATIONAL, INC.

23 **ATTESTATION**

24 In compliance with Federal Rule 5, Local Rule 5-1(i)(3), the filer of this
25 document hereby attests that the concurrence to the filing of this document has been
26 obtained from the other signatories thereto.

27 /s/ Michael W. Carruth

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